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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,954

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Augusto Ribolzi

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WHIRLPOOL PATENTS COMPANY - MD 0750
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ST. JOSEPH, MI 49085

EXAMINER

SULLIVAN, MATTHEW J

ART UNIT

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3677

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,954	Applicant(s) RIBOLZI ET AL.	
	Examiner MATTHEW SULLIVAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/21/09 have been fully considered but they are not persuasive. Applicant has made several arguments traversing the rejections made by the Examiner in the Office Action dated 10/20/08. These arguments are addressed below.

Applicant has first argued that Examiner has mischaracterized Svenvig '480 to traverse Examiner's rejection of Claims 1-3, 10-12, 15, 16 and 20. Specifically, Applicant has asserted that the caster disclosed in Svenvig '480 does not rotate around a vertical axis. Examiner disagrees. Examiner acknowledges that the sections of the specification of Svenvig '480 are indefinite but does believe that they sufficiently limit that the invention to be fixed around the vertical axis. Examiner wishes to point Applicant to *page 1, Ins 35-39 and Ins 57-58*. Examiner believes that Svenvig's use of the term "ball bearing" and specific graphical depiction of what is well understood to be a ball bearing implies that the invention is meant to, configured (and at the very least, capable of) rotating around a vertical axis. Although Applicant has argued that the ball bearing functions as simply a thrust bearing this interpretation is not consistent with the knowledge of the ordinary skill of one in the art. Any definition of "ball bearing" can be found to imply rotational motion between components. Examiner believes Svenvig did not elaborate on this relative motion because, being one of ordinary skill in the art, he understood that such motion is inherent in the language used. Applicant has pointed to the terms "snugly", "tightly" and descriptions such as "complete article" as testament to

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his position that the assembly does not rotate. However, in light of *Ins 35-39*, that any snugness or tightness could be introduced by the diameter of the suitable cavity. And, furthermore, the specification does not specifically say the assembly does not rotate.

Applicant further argues that Svenvig '480 does not teach elements being elastically constrained. Examiner disagrees and points to *Ins 44-49* and element 5. Examiner believes that this connection is described in such a way that it sufficiently describes an elastic constraint.

In response to applicant's argument that Steininger is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the application is for a bearing which, in the Examiner's interpretation, is intimately related to caster applications. However, Examiner has provided additional prior art below.

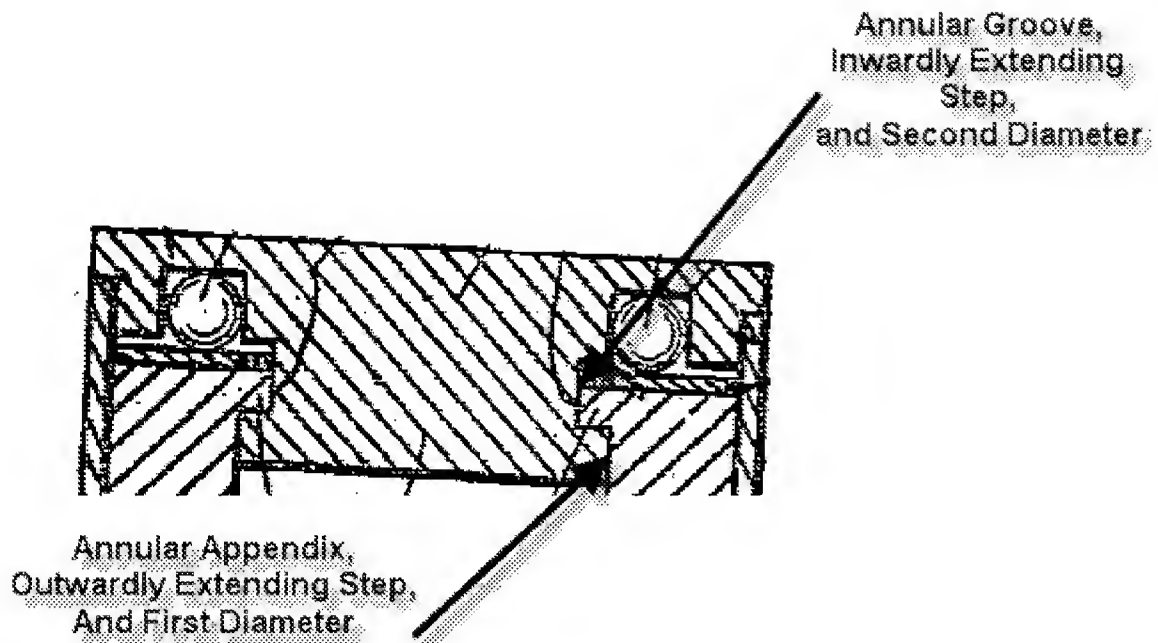
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3 and 10-12, 15, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb, U.S. Patent 3,437,346 (4/8/69) in view of Svenvig, U.S. Patent 957,480 (5/10/10).

Cobb teaches a dynamic support means (22) for a refrigerator (Col 1, Lines 20-24) comprising a support roller (46) presenting a horizontal rotation axis (48). Cobb does not teach a vertical swivel axis perpendicular to the horizontal swivel axis where the axes intersect each other. Svenvig does teach a roller (15) with a horizontal rotation axis (see figs. 1-4) and a vertical swivel axis (see figs. 3 and 5) characterized in that the rotation axis and swivel axis intersect each other. Svenvig further teaches a stationary element (6) and a rotary element (11) for supporting a roller and an outwardly extending step, a first diameter, an inwardly extending step, a second diameter, an annular appendix (see below) and an annular groove (see below) with the appendix received in the groove and the step of the rotary element beyond the step of the stationary element such that they mutually rotate about the swivel axis and the steps elastically constrain the elements, **[Claim 1]**. Regarding the groove being discontinuous it is generally held that a change in shape is within the ordinary skill of one in the art barring any unforeseen result, *In re Dailey*. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide Cobb '346 with the features as taught by Svenvig '480 because multiple rotational axes would give the user more degrees of freedom to adjust the position of the refrigerator.



Regarding **Claim 11**, Cobb further teaches a rotary element (2, 9, 11, 14, 15) and a stationary element (6). Cobb further describes what is essentially an elastic snap-fit connection (see Col 1, Lines 44-50) connecting the stationary and rotary elements.

Regarding **Claim 12**, Cobb teaches the snap fit connection comprising an annular groove (comprising a step) and an annular projection received in that groove (see below).

Regarding **Claim 2**, Svenvig further teaches a rotation axis and swivel axis that intersect at an intermediate point of the roller (see fig. 3).

Regarding **Claims 3 and 15**, Cobb further teaches a screw means (72) extending from the stationary element (42) and threadably received in the appliance for adjusting the height of the support roller (46).

Regarding **Claim 16**, Cobb teaches the elements mutually rotatable about the swivel axis.

Regarding **Claim 10** and **20**, Svenvig further teaches the support roller (15) rotating idly about a shaft (14) engaged in holes (see fig 6.) provided in projections extending lowerly from the rotation element (11, see fig. 6).

2. Claims 8, 9, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb '346 and Svenvig '480 as applied to claims 1-3 and 10-12, 15, 16 and 20 above, and further in view of Raffaeli, U.S. Patent 4,554,704 (11/26/85).

All the aspects of the instant invention are disclosed above but for projections of self-lubricating material present between the stationary element and the rotation element and that self-lubricating material being Teflon. Raffaeli '704 does teach projections of self lubricating material (fig. 1, 16, 17) present between a stationary element (15) and a rotating element (21), see Abstract; **[Claims 8, 18]**. Raffaeli '704 further teaches the fluoropolymers Teflon, Impreglon, Everlube and Delrin as self-lubricating material; **[Claim 9, 19]**. At the time of the invention it would have been obvious to one of ordinary skill in the art to combine Cobb '346 and Svenvig '480 with the features as taught by Raffaeli '704 because self-lubricating materials would not require maintenance to replenish liquid lubricant. The listed materials are well-known self-lubricating materials.

3. Claims 13, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb '346 and Svenvig '480 as applied to claims 1-3 and 10-12, 16 and 20 above, and further in view of Steininger, U.S. Patent 4,965,915 (10/30/90) and Egan, U.S. Patent 2,899,700 (8/18/59).

All the aspects of the instant invention are disclosed above but for the annular projection comprising a step and the step of the annular groove being discontinuous. Steininger clearly teaches an annular projection (9) having a step (13) and step in the annular groove (see below) being discontinuous (see fig. 2) and Egan teaches a snap fit connection applied to a caster, **[Claims 13 and 17]**. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the combination of Cobb and Svenvig with the snap-fit characteristics of Steininger and Egan because the step on the annular projection would enhance the connection and the discontinuous step would aid in assembly and disassembly and snap connections are well known in the art.

Regarding **Claim 14**, see rejection of **Claim 2** above in light of rejection of **Claim 13**.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SULLIVAN whose telephone number is (571)270-5218. The examiner can normally be reached on Mon-Thurs, 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

/MATTHEW SULLIVAN/
Examiner, Art Unit 3677